

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:12-cv-162-FL

ERIC MCMILLIAN,	)	
Plaintiff,	)	
	)	
v.	)	
	)	
OFFICER E.W. GILYARDI,	)	ORDER
Raleigh Police Department,	)	
	)	
Defendant.	)	

This matter is before the court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge David W. Daniel, regarding the application to proceed in forma pauperis under 28 U.S.C. § 1915. No objections to the M&R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.

The court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, plaintiff’s motion is GRANTED. Plaintiff’s request for appointment of counsel is DENIED. Plaintiff’s § 1984 claim is DISMISSED on frivolity review, however his complaint survives frivolity review on his § 1983 claim. The clerk is directed to file the complaint and issue the summons prepared by plaintiff. The United States Marshal is directed to serve the summons and a copy of the complaint on defendant.

So ordered, this the 22nd day of August, 2012.



LOUISE W. FLANAGAN  
United States District Judge